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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/821,563	03/29/2001	Dean Rosales	ITL0536US (P10841)	5880
21906 7590 05/06/2009 TROP, PRUNER & HU, P.C. 1616 S. VOSS ROAD, SUITE 750 HOUSTON, TX 77057-2631				
EXAMINER TUCKER, WESLEY J				
ART UNIT 2624		PAPER NUMBER		
MAIL DATE 05/06/2009		DELIVERY MODE PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte*: DEAN ROSALES

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Application No. 09/821,563  
Technology Center 2600

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Mailed: May 6, 2009

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Before KRISTA ZELE *Deputy Chief Appeals Administrator*  
ZELE, *Deputy Chief Appeals Administrator*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on March 12, 2009. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter requiring attention.

### REQUEST TO REOPEN PROSECUTION

On January 21, 2009, Appellant filed a Request to Reopen Prosecution based on the new grounds of rejection in the Examiner's Answer.

Under the *Manual of Patent Examining Procedure* (MPEP) § 1207.03 (8<sup>th</sup> ed. Rev. 6, September 2007), Appellant must either file a reply brief addressing each new ground of rejection or file a reply in compliance with 37 C.F.R. § 1.111 to request prosecution be reopened. The reply must be filed within two months from the date of the examiner's answer to avoid *sua sponte* dismissal of the appeal as to the claims subject to the new grounds of rejection. *See* MPEP § 1207.03 for details.

Because the Appellant timely filed a request to reopen prosecution, prosecution is reopened and the appeal is withdrawn. The application is returned to the Examiner to address the request.

### CONCLUSION

Accordingly, it is ORDERED that the application is returned to the Examiner to:

- 1) address Appellant's request to reopen prosecution; and
- 2) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

KZ/BIM

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